

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

FLOYD T. HARRIS and)
DARLENE A. HARRIS,)
Plaintiffs,)
v.)
Case No. 2:06-cv-211-MHT
REGIONS BANK d/b/a)
REGIONS MORTGAGE,)
SUCCESSOR BY MERGER TO)
UNION PLANTERS BANK, N.A.,)
Defendants.)

MOTION TO DISMISS OR, IN THE ALTERNATIVE, MOTION TO TRANSFER

Comes now Regions Bank d/b/a Regions Mortgage, Successor by Merger to Union Planters Bank, N.A., the Defendant in the above-referenced action (hereinafter "Regions"), and moves this Court to dismiss this case or, in the alternative, to transfer this case to the United States District Court for the Northern District of Alabama. In support thereof, Regions represents unto this Court as follows:

1. In or about January 2004, Regions, through its predecessor, Union Planters Bank, loaned money to Floyd Harris and Darlene Harris (hereinafter "Harrises") and secured that loan with a mortgage on the property at issue in this dispute. See Amended Complaint filed by the Plaintiffs.

2. The Harrises subsequently defaulted on that note and Regions foreclosed on the mortgage.

3. When the Harrises refused to vacate the property, Regions initiated eviction proceedings in the Circuit Court of St. Clair County, Alabama. See State Complaint, attached hereto as Exhibit 1.

4. The Harrises answered that State Complaint filed against them asserted various counterclaims, alleging, among other things, that Regions mishandled their loan and mortgage, violated the Truth in Lending Act and various other federal statutes, wrongfully foreclosed on their mortgage, violated the Truth in Lending Act and various other federal statutes, wrongfully foreclosed on their mortgage, failed to participate in the "Private Administration Process" purportedly initiated by the Harrises, and failed to "validate" their debt. See State Answer to Complaint and Amended Counter-Complaint, attached hereto as Exhibit 2.

5. On February 2, 2006, the Circuit Court of St. Clair County, Alabama entered a judgment as a matter of law in favor of Regions, dismissed with prejudice the claims asserted by the Harrises, and entered an award of sanctions against the Harrises. See State Order, attached hereto as Exhibit 3.

6. Rather than appealing that decision to either the Alabama Court of Civil Appeals or the Alabama Supreme Court, the Harrises elected, instead, to refile their claims with this Court, asking this Court, in effect, to sit as an appellate court over the decision of Circuit Court of St. Clair County, Alabama. See Amended Complaint.

7. As recognized by the Rooker-Feldman doctrine, however, this Court has no authority to review the final judgments of state courts. See *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 415-16 (1923); *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 476-82 (1983); *Goodman v. Sipos*, 259 F.3d 1327, 1332 (11th Cir.2001).

8. Indeed, as the Eleventh Circuit Court of Appeals has explained, “The Rooker-Feldman doctrine provides that federal courts, other than the United States Supreme Court, have no authority to review the final judgments of state courts[;], [t]he doctrine extends not only to constitutional claims presented or adjudicated by a state court, but also to claims that are ‘inextricably intertwined’ with a state court judgment.” Siegel v. LePore, 234 F.3d 1163, 1172 (11th Cir.2000).

9. Accordingly, the Harrises’ claims are due to be dismissed as a matter of law.

10. In the alternative, Regions moves this Court to transfer this matter to District Court for the Northern District of Alabama, for *forum non conveniens*.

11. 28 U.S.C. 1404(a) provides that, “For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought.”

12. As acknowledged in the Harrises’ Amended Complaint, the Harrises live in St. Clair County, the property at issue in this dispute is located in St. Clair County, all the relevant actions took place in St. Clair County, and counsel for Regions is located in Jefferson County. See Amended Complaint. It is also undisputed that Regions is an Alabama corporation with its principal place of business in Jefferson County. See Corporate Details, attached hereto as Exhibit 4. Thus, this action could have, and, indeed, should have, been filed in the District Court for the Northern District of Alabama. Indeed, this action has no connection at all to this District.

13. Based on the location of the parties, the property at issue, the potential witnesses and evidence, and the public interest, this matter would clearly be far more convenient

for all involved to try this matter in the District Court for the Northern District of Alabama. See generally, Folkes v. Haley, 64 F.Supp.2d 1152 (M.D.Ala.1999). Therefore, should this Court not dismiss the claims filed by the Harrises, Regions respectfully requests that, should this Court not dismiss the claims filed by the Harrises, this Court transfer this case to the District Court for the Northern District of Alabama.

s/ C. Lee Reeves
C. Lee Reeves
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Regions Bank d/b/a
Regions Mortgage,
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CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of March 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and I hereby certify that I have mailed by U.S. mail the foregoing to the following:

Floyd T. Harris and
Darlene A. Harris
P.O. Box 71
Pell City, AL 35125

s/ C. Lee Reeves
Of Counsel